



Neutral Citation Number: [2019] EWHC 1669 (QB)

Case No: HQ17M04570

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 26/06/2019

Before :

MR JUSTICE JULIAN KNOWLES

Between :

Gareth Bull
- and -
Donna Desporte

Claimant

Defendant

William Bennett QC (instructed by Howes Percival) for the Claimant
The Defendant appeared in person

Hearing dates: 26 June 2019

POST-JUDGMENT REASONS

**If this Approved Judgment has been emailed to you it is to
be treated as 'read-only'.**

**You should send any suggested amendments as a separate
Word document.**

The Honourable Mr Justice Julian Knowles:

1. This is my judgment following the hand-down of the open and closed versions of my judgment in this claim for misuse of private information and copyright infringement. In those judgments I found for the Claimant and awarded the Claimant damages and a permanent injunction to restrain the Defendant from publishing the Claimant's private information. The reader is referred to the open judgment for further details of those claims.
2. A draft order was prepared by the Claimant and sent to the Defendant, who failed to respond to it, saying she never received it. Having received a copy at the hand-down hearing, the Defendant made a number of submissions about it. I thought it prudent to set out my brief reasons for making the order which I will make.

Form of injunction

3. The draft form of order prepared by the Claimant included an injunction to restrain the Defendant from publishing or disclosing the four categories of information specified in the injunction which replicate the four categories of information specified in the open judgment at [4], namely: (a) details of the sexual relationship between the Claimant and the Defendant; (b) the Claimant's relationship with, and divorce from, his former wife, Catherine Bull; (c) the Claimant's children; (d) the physical health of the Claimant. This was the form of injunctions sought in the Particular of Claim. The Defendant made a Part 18 request asking which passages of the Book were complained of, and this produced the list of 36 passages contained in the Confidential Annex to the closed judgment.
4. The Defendant argued that the injunction should just prohibit publication of these 36 passages. I disagree. The form of injunction sought by the Claimant matches that granted by His Honour Judge Moloney QC in the interim non-disclosure order in December 2017. The 36 passages are illustrative of the four categories complained of by the Claimant and not exhaustive of them. The Defendant has made clear that she may well produce further editions of her book, and the injunction in the form sought by the Claimant will ensure that the Book does not contain material of the same type in the 36 passages complained of. I am satisfied that she knows what the injunction prohibits her from doing. In the original version of my judgments I referred to the Claimant seeking an injunction in relation to 'the Information' which I defined in [8] as the 36 passages. To put the matter beyond doubt and so there is no ambiguity I have recalled and made small amendments to the judgments (see eg the open judgment at [8] and [154]) to reflect that the injunction is in this form in relation to four categories of private information and not just in relation to the 36 passages. (On the general power to recall and amend judgments before the order is sealed, see *Re Barrell Enterprises* [1973] 1 WLR 19 and the notes in the White Book 2019 at [40.2.1.2]).

Part 36 offer and costs

5. The Claimant seeks his costs pursuant to CPR r 44.4(2) as the successful party. The approved costs budget was £182 961. He also seeks a payment on account of £94 000.

6. Ms Desporte resists the application. She says that she made a Part 36 offer on 31 May 2018 and in light of that she ought not to have to pay the Claimant's costs. At that stage there was a counterclaim in libel by Ms Desporte against the Claimant. For reasons which I do not need to relate here, that claim was separated off from the Claimant's privacy and copyright claims and was, in due course, struck out.
7. Ms Desporte's Part 36 offer was in the following terms:
 - a. She denied the copyright claim but said she was 'happy to delete' the photographs from her book 'Google Me No Lies' ('the Book').
 - b. She denied that the Book contained any private information. However, she said she was prepared to change the names of the Claimant's children and to consider specific requests for non-disclosure 'as stated prior to the commencement of litigation'.
 - c. In relation to her Part 20 counterclaim, she said she would settle it on the basis that: (a) there was an agreed statement corrected 'misleading and false statements, particular those that claim the book is "pornographic"'; (b) the Claimant (ie, the Part 20 defendant) do pay the Defendant's (ie, the Part 20 claimant) 'losses, costs, damages and compensation in respect of the counterclaim'.
 - d. Other costs orders that had been made in the Claimant's favour were not to be enforced.
8. I reject Ms Desporte's submissions. The Defendant did not offer any financial settlement, and I have awarded the Claimant £12 550 in damages. He therefore plainly obtained a more advantageous result than that which the Defendant offered and so he is entitled to his costs in the usual way. The Defendant's offer to edit the book came too late; as I set out in the judgment, from at least September 2017 onwards the Claimant sought a copy of manuscript, which the Defendant refused to provide. She repeatedly sought to mislead the Claimant and his lawyers about the Book's contents. She went ahead and published the Book in November 2017 knowing that the Claimant would likely seek injunctive relief and damages if the Book contained private information, as I have found that it did. She was warned of these possible consequences in correspondence from the Claimant's solicitor. Accordingly, there is no reason why she should not pay the Claimant's costs.
9. I order the Defendant to make a payment on account of costs in the sum of £94 000, as sought by the Claimant.

Permission to appeal

10. Finally, the Defendant applies for permission to appeal pursuant to CPR r 52.6(1). I refuse permission because in my judgment (a) an appeal has no any prospects of success; and (b) there is no other compelling reason for an appeal to be heard.